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| <p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>HELENE LEVY,</p> <p>v.</p> <p>Respondent:</p> <p>DENVER COUNTY BOARD OF EQUALIZATION.</p> | <p>Docket No.: 69739</p> |
| <p>ORDER</p> | |

THIS MATTER was heard by the Board of Assessment Appeals on July 14, 2017, Diane M. DeVries and MaryKay Kelley presiding. Petitioner’s husband, Gene Levy, and son, Jeremy Levy, appeared on behalf of Petitioner. Respondent was represented by Noah Cecil, Esq. Petitioner is protesting the 2016 actual value of the subject property.

Subject property is described as follows:

**260 and 262 South Pearl Street, Denver, Colorado
Denver County Schedule No. 05104-34-010-000**

The subject is a 1,350-square foot side-by-side duplex with cellar. It was built in 1906 on a 3,920-square-foot site in the South Speer neighborhood. Construction is brick with a flat roof.

Respondent assigned a value of \$316,000 but is recommending a reduction to \$304,000 based on appraisal. Petitioner is requesting a value of \$200,000.

Gene and Jeremy Levy described the original construction of the subject as sand brick, a soft, porous material that deteriorates when exposed to rain or snow. Their testimonies were accompanied by photos of spalling and cracked bricks, some fallen to the ground, and a decaying chimney. They reported that several window contractors refused to work with the subject’s brick exterior, and Jeremy replaced a window himself for that reason. Also, rain and snowmelt from the roof of the adjacent house has drained toward the subject, resulting in interior flooding. The front porch and steps are unstable. Framing needs paint, and front doors need replacing. The witnesses testified to mechanical systems being operable and interior condition to be average. However, the floor plans

are “shotgun style” with kitchens accessed via one of the bedrooms; a two-bedroom designation is not appropriate per the witnesses.

Petitioner’s requested value is \$200,000 based on actual values of similar properties on the subject block and the block to the west. The data was secured from assessor rolls, but the witnesses provided neither property addresses nor actual values.

The witnesses addressed Respondent’s analysis: Sale One had a composition roof considered superior to flat as well as newer windows and doors; Sale Two was remodeled prior to sale and was not an arm’s length transaction; Sale Three was located in a superior location near Denver Country Club. They argued that all should have carried adjustments for superior locations (less commercial and negative influences), lot sizes, stable brick exteriors, absence of flooding, and functional floor plans.

Respondent’s witness, Kimberly Lust, Ad Valorem Appraiser for the Denver County Assessor’s Office, presented an appraised value of \$304,000. Unable to contact Petitioner, her analysis was based on an exterior-only inspection. She provided three comparable duplex sales ranging in sale price from \$368,000 to \$425,500. All were built between 1893 and 1908 and ranged in size from 1,443 to 1716 square feet. She assigned a construction quality grade of C- and physical condition of “poor.” After application of time adjustments, she compared construction quality (assigning all comparable sales a C grade) and physical condition (assigning “average” to all comparable sales). She also applied adjustments for room count and average unit size.

Ms. Lust testified that an interior inspection would have provided a more thorough analysis and possibly adjustments for condition, functional utility, the unstable brick exterior, drainage and flooding. She defended her adjustments for improvement size while acknowledging she might reconsider lot size adjustments if she were permitted an inspection and re-evaluation of the entire property.

Petitioner presented insufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2016.

The Board can only consider an equalization argument as support for the value determined using the cost, market, or income approach to appraisal. For an equalization argument to be effective, Petitioner must also present evidence or testimony that the assigned value of the comparable properties was correctly determined. As that evidence and testimony was not presented, the Board can give no further consideration to the equalization argument presented by Petitioner. See *Arapahoe County Board of Equalization v. Podoll*, 935 P.2d 14, 17 (Colo 1997).

Respondent’s witness correctly completed a site-specific appraisal of the subject property, comparing sales of similar properties and adjusting for time and a variety of characteristics. Petitioner did not present sufficient probative evidence to dispute Respondent’s assigned value. The Board finds Respondent’s appraisal to be the most reliable evidence concerning the value for the subject property for tax year 2016 presented at the hearing. The Board is convinced that

Respondent's value conclusion for the subject of \$304,000 is based on credible evidence and sufficiently supported. The Board found Respondent's witness to be convincing.

The Board acknowledges Respondent's inability to access the interior of the subject property and the related difficulties in performing a thorough appraisal.

ORDER:

Respondent is ordered to reduce the subject's 2016 value to Respondent's recommended value of \$304,000.

APPEAL:

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-nine days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the respondent county, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-nine days after the date of the service of the final order entered).

In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

Section 39-8-108(2), C.R.S.

DATED and MAILED this 28th day of July, 2017.

BOARD OF ASSESSMENT APPEALS

Diane M DeVries

Diane M. DeVries

MaryKay Kelley

MaryKay Kelley

I hereby certify that this is a true and correct copy of the decision of the Board of Assessment Appeals.

Milla Lishchuk

Milla Lishchuk

